

Serial No. 09/835,839
Reply to Office Action of August 25, 2005

REMARKS/ARGUMENTS

Claims 1-13 and 18-26 were presented for examination and are pending in this application. In a Final Official Office Action dated August 25, 2005, claims 1-13 and 18-26 were rejected. The Applicant thanks the Examiner for his consideration and addresses the Examiner's comments concerning the claims pending in this application below.

Applicant herein amends claims 1, 13, 18, 22, 24 and 26 and respectfully traverses the Examiner's prior rejections. Claim 10 is presently cancelled and no new claims are presently added. The additional limitations brought into the independent claims place the claims in better condition for consideration on appeal and are not believed to add new matter or raise any new issues that would require further research by the examiner. Accordingly, the amendments should be entered under 37 C.F.R. 1.116. The claims have been amended to expedite the prosecution and issuance of the application. In making this amendment, Applicant has not and is not narrowing the scope of the protection to which the Applicant considers the claimed invention to be entitled and does not concede, directly or by implication, that the subject matter of such claims is in fact disclosed or taught by the cited prior art. Rather, Applicant reserves the right to pursue such protection at a later point in time and merely seeks to pursue protection for the subject matter presented in this submission.

Based on the above amendment and the following remarks, Applicant respectfully requests that the Examiner reconsider all outstanding rejections and withdraw them.

I. Rejection of the Claims under 35 U.S.C. §102(e)

Claims 1-6 and 8-11 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,282,542 ("Carneal"). Applicant respectfully

Serial No. 09/835,839
Reply to Office Action of August 25, 2005

traverses these rejections in light of the following remarks.

MPEP§2131 provides:

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegall Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir.1987). "The identical invention must be shown in as complete detail as contained in the claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

The claims as currently amended recite features lacking in the applied references. For example, independent claim 1 recites, among other things, "a cache controlled by the intermediary server for caching selected network resources configured to store program constructs comprising software code, applets, scripts, active controls, wherein the intermediary server actively selects network resources for the cached resources to include more than the requested resources including speculatively pre-selecting network resources for the cached resources based on state information of the requests and wherein at least some of the cached resources are selected both in response to the requests and explicitly selected to prevent future client requests from being communicated to the server...."

The Examiner asserts that Carneal discloses each and every element of claim 1. The Applicant respectfully disagrees. As referenced by the Examiner, Carneal appears to disclose a "system and method for prefetching inline objects of documents" to resolve delays experienced in fully retrieving and displaying web pages associated with a satellite link. Carneal Col. 3, lines 10-11 (see also Col. 2, lines 61-65). According to Carneal, "when a web server returns a parent

Serial No. 09/835,839
Reply to Office Action of August 25, 2005

file of a web page that has been requested by the user, the satellite gateway components parses the parent file to identify any reference to inline objects, and prefetches these objects from the web server." Carneal Col. 3, lines 19-24. Inline objects associated with a parent file as disclosed in Carneal are not synonymous with resources based on state information of client requests.

Carneal further describes the prefetching of an inline object as a process limited to resources associated with the parent file. Carneal states, "[o]ne example of document that is likely to be requested by a client is an inline object within a previously requested parent file. If the proxy server parses the originally [sic] parent file, the proxy server can determine that the document contains an external reference to an inline arrives from object and can begin retrieval of the inline object before the actual request arrives from the web browser." Carneal Col. 6, line 36-44. Carneal continues to describe the role of the proxy server as it "parses the information in the response to the initial request to determine the presence of inline objects. The proxy server sends surrogate requests for the inline object and stores the objects as they arrive." Carneal Col. 6 line 66 - Col. 7 line 2.

The present invention actively caches contents that are selected speculatively based on what is expected to be requested in the future as determined from state information of previous requests. Carneal discloses caching contents inline with a current parent request. While the Applicant concedes the two concepts are similar, they are however distinct. The present information uses state information of the requests, such as a cookie, to allow the cache to be filled with dynamically generated content. State information can also be communicated from the server in the initial response in the form of parameters encoded in links within the response. The cache can then be filled by making speculative requests using the links within the current response so

Serial No. 09/835,839
Reply to Office Action of August 25, 2005

that the cache is filled with dynamically generated content. This allows the cache to be filled in an intelligent and efficient manner with data that has a high likelihood of being requested in the future.

Carneal discloses a prefetching of inline content of a parent request rather than content based on state information of the request as is claimed by the Applicant's invention. Carneal does not disclose speculatively pre-selecting (prefetching) resources based on the state information of requests. As Carneal fails to disclose each and every element of claim 1, claim 1 is not anticipated by Carneal. The Applicant respectfully requests the rejection be withdrawn. Claims 2-6 and 8-11 depend from claim 1 and are, for at least the same reasons, not anticipated by Carneal. Reconsideration of claims 2-6 and 8-11 is also respectfully requested.

Claims 13 and 18-26 were rejected by the Examiner under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,438,652 ("Jordan"). The Applicant respectfully traverses these rejections. Independent claim 13 recites, among other things (and claims 18 and 22 in varying language), "wherein the intermediary server actively selects network resources for the cache to include more than the requested resources including speculatively pre-selecting network resources for the cache based on state information of the requests." Jordan fails to disclose such a speculative pre-selection process.

Jordan appears to disclose "a method and system of balancing the load across a collection of cache servers that process both direct and forwarded requests by shifting some or all forwarded requests to a less loaded cache server." Jordan Col. 3 lines 19-24. Jordan does not disclose speculatively pre-selecting resources based on the state information contained in a request. In light of presently amended claims 13, 18 and 22, the Examiner's rejections in light of Jordan are unsupported. As Jordan fails to disclose each and every

Serial No. 09/835,839
Reply to Office Action of August 25, 2005

element of independent claims 13, 18 and 22, the Applicant respectfully submits that Jordan does not anticipate claims 13, 18 and 22. Claims 19-21 and 23-26 depend from claims 18 and 22 respectively and are, for at least the same reasons, not anticipated by Jordan. Withdrawal of the rejections and reconsideration is respectfully requested.

II. 35 U.S.C. §103(a) Obviousness Rejection of Claims

Claim 7 was rejected by the Examiner under 35 U.S.C. §103(a) as being unpatentable over Carneal in view of U.S. Patent No. 6,542,964 ("Scharber"). Claim 12 was rejected by the Examiner under 35 U.S.C. §103(a) as being unpatentable over Carneal in view of U.S. Patent No. 4,370,710 ("Kroft"). Applicant respectfully traverses these rejections in light of the aforementioned remarks and respectfully requests reconsideration.

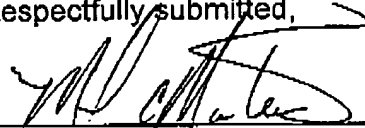
Claim 1, from which both claim 7 and 12 depend, recites among other things, " a cache controlled by the intermediary server for caching selected network resources configured to store program constructs comprising software code, applets, scripts, active controls, wherein the intermediary server actively selects network resources for the cached resources to include more than the requested resources including speculatively pre-selecting network resources for the cached resources based on state information of the requests and wherein at least some of the cached resources are selected both in response to the requests and explicitly selected to prevent future client requests from being communicated to the server...." Neither Carneal in view of Scharber nor Carneal in view of Kroft teach or suggest such a limitation nor does the Examiner assert that they do. Accordingly, the Applicant requests the rejections be withdrawn and the claims reconsidered. In view of all of the above, the claims are now believed to be allowable and the case in condition for allowance which action is respectfully requested. Should the Examiner be of the opinion that a telephone

Serial No. 09/835,839
Reply to Office Action of August 25, 2005

conference would expedite the prosecution of this case, the Examiner is requested to contact Applicant's attorney at the telephone number listed below.

No fee is believed due for this submittal. However, any fee deficiency associated with this submittal may be charged to Deposit Account No. 50-1123.

Respectfully submitted,



Michael C. Martensen, No. 46,901
Hogan & Hartson LLP
One Tabor Center
1200 17th Street, Suite 1500
Denver, Colorado 80202
(719) 448-5910 Tel
(303) 899-7333 Fax

28 September, 2005